

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

INVESTIGATION

NUMBER: Log #1059058 / U #12-49

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 31 years old; On-Duty; Civilian Dress; Year of Appointment – 2006

OFFICER’S

INJURIES: None Reported

WITNESS

OFFICER #1: “Officer B” (Chicago Police Officer); Male/Hispanic; 30 years old; On-Duty; Civilian Dress; Year of Appointment – 2006
No Injuries Reported

WITNESS

OFFICER #2: “Officer C” (Chicago Police Officer); Male/Black; 34 years old; On-Duty; Civilian Dress; Year of Appointment – 2002
No Injuries Reported

WITNESS

OFFICER #3: “Officer D” (Chicago Police Officer); Male/Hispanic; 29 years old; On-Duty; Civilian Dress; Year of Appointment – 2007
No Injuries Reported

WITNESS

OFFICER #4: “Officer E” (Chicago Police Officer); Male/Hispanic; 60 years old; On-Duty; In Uniform; Year of Appointment – 1996
No Injuries Reported

SUBJECT: “Subject 1”; Male/Black; 21 years old

SUBJECT’S INJURIES: One (1) gunshot wound to left upper back

DATE/TIME: 17 December 2012 at 1056 hours

LOCATION: 1518 East 77th Street - Beat 411

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through the investigation initiated by the Chicago Police Department, revealed the following.¹

On 17 December 2012, at approximately 1056 hours, Officers B and C, who were assigned to Beat #461D, in civilian dress, in an unmarked Department vehicle, observed a black male subject, now known as Subject 1, walking on 76th Street, as he held his side. Taking Subject 1's action of holding his side to be suspicious based on experience, the officers stopped their vehicle, identified themselves, and called Subject 1 over to their vehicle, attempting to conduct a field interview. Subject 1 did not comply and immediately fled on foot southbound through a vacant lot. Officer C exited the vehicle and gave chase on foot while Officer B remained in the vehicle and followed Subject 1's route. Subject 1 ran south, through the driveway of 1523 E. 76th Place. Subject 1 exited the backyard of 1523 E. 76th Place, and was observed by Officer B running west through the alley toward Blackstone Street. Subject 1 then changed the path of his flight and ran south to the backyard of 1512 E. 77th Place. Officer B reported Subject 1's direction of flight via police radio. Officer C continued his foot pursuit of Subject 1 and observed him (Subject 1) in the backyard of 1512 E. 77th Place. Upon observing Officer C, Subject 1 fled east through multiple backyards on the north side of 77th Street by jumping over fences. Upon seeing a weapon in Subject 1's hand(s), a radio transmission was made to alert the responding units.

At this time, Officers A, D, and E, arrived on the scene while Officer B, who was still in his vehicle, waited for Subject 1 to exit one of the backyards. Officers A, C, D, and E started to search the area for Subject 1. As Officer C was about to enter the gangway leading to the backyard of 1518 E. 77th Place, Officer A observed Subject 1 in a crouching position with a weapon in his hand in the ready position. Officer A, who was in the alley on the west side of the garage at 1518 E. 77th Place, ordered Subject 1 to "drop the gun," but Subject 1 did not comply. At that time, Officer A, who was in fear for his life and the life of Officer C, fired his weapon four times, striking Subject 1 once in the upper left back. An ambulance was summoned to the scene and transported Subject 1 to Stroger Hospital. Subject 1's weapon was recovered in the backyard of 1518 E. 77th Place.

¹ It should be noted that during the course of this investigation, Civil Suit 13 L 014166 was received at IPRA. Subject 1 is seeking monetary damages in excess of \$50,000 for permanent injuries alleged to have been sustained as a result of this incident.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

INVESTIGATION:

The related **Department Reports** including the Arrest Report of Subject 1, General Offense Case and Supplementary Reports, and the Tactical Response Reports (TRR) and Officers' Battery Reports (OBR) of Officers A, C, and D provide accounts of the incident which are consistent with the facts contained in the Summary of Incident.²

The **Office of Emergency Management and Communications (OEMC)** recorded transmissions and related Event Queries were obtained and incorporated into this investigation.³ An analysis of the transmissions and documents did not reveal any information which was inconsistent with the facts contained in the Summary of Incident and accounts of Officers A, B, C, D, and E.

The **In-Car Camera Footage for Beat 411 (Vehicle 8364)** did not capture any images relative to the police involved shooting under investigation.

The **CPD Forensic Services Division Records** (Crime Scene Processing Reports, Video of Scene, Evidence Technician Photographic Records and Inventory Sheets) were obtained and incorporated into this investigation. A Taurus .380 Semi-Automatic handgun and twelve (12) round magazine were recovered, swabbed for DNA at the scene and inventoried for further forensic testing. Officer A's firearm was recovered and inventoried for further forensic testing.

Illinois State Police (ISP) Division of Forensic Services Reports documenting the examination of recovered ballistic evidence in comparison to the firearm belonging to Officer A and the Taurus PT138PRO recovered at the scene were obtained and incorporated into this investigation. Both were test fired and found to be in firing condition.

A **canvass** conducted in the vicinity of 1518 East 77th Street failed to produce any witnesses to the police-involved shooting.⁴

Attempts to contact Subject 1, through his criminal attorney, were met with negative results.

The **Chicago Fire Department (CFD) Ambulance Report** documents that Subject 1 was observed to have a gunshot wound to his right back. Subject 1, who was hypotensive, had good range of motion and pulse motor sensory in all extremities. Subject 1 was transported to Stroger Hospital.

² It should be noted that the citizens identified in General Offense Case Report RD HV 606019 as being interviewed by the Detectives during their canvass did not observe the police-involved shooting. All indicated they only heard various numbers of shots being fired.

³ The Personal Data Terminal (PDT) Transmissions for the Beats identified as being on scene via the OEMC Event Queries were obtained and incorporated into this investigation.

⁴ During the course of IPRA's canvass, citizens [Citizen 1, Citizen 2, and Citizen 3] reported that they heard gunshots, but did not witness the events immediately prior to and/or the actual discharge of Officer A's weapon.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

In a statement with IPRA, **Witness Officer B** provided his account of this incident which was consistent with the Department Reports, witness accounts and Summary of Incident.⁵ On the date and time of this incident, Officers B and C were working Beat 461D, in civilian dress, driving in an unmarked Department vehicle. Officer B described their assignment as “violence reduction,” which entailed responding to “in-progress” calls and “patrolling” the 004th District. Officers B and C observed a subject, now identified as Subject 1 walking eastbound on 76th Street. Subject 1 made eye contact with Officers B and C, who were driving westbound on 76th Street. Officers B and C drove past Subject 1. Both officers turned their attention toward Subject 1, who had his hands at waist level and appeared to be adjusting his waistband.⁶ Officer B turned the vehicle around, and traveled eastbound on 76th Street to Subject 1’s location. Officer B pulled the vehicle alongside Subject 1 and Officer C attempted to talk to Subject 1. Subject 1 took a step toward Officers B and C before Subject 1 turned around and began running south/southeast. Subject 1 ran through a vacant lot at a fast pace. Officer C exited the vehicle and pursued Subject 1 on foot, while Officer B followed in the vehicle. Officer B provided a physical and clothing description of Subject 1 via radio. Officer B provided Subject 1’s route as 76th Street to 76th Place southbound through residential gangways toward 77th Street. Officer B stated that while he kept Subject 1 in his sight, he did lose sight of him momentarily while Subject 1 ran through gangways. Officer B estimated his speed during this time was approximately fifteen to twenty (15-20) miles per hour, but did not recall if his emergency equipment was activated. When Subject 1 observed Officer B on 77th Street, Subject 1 changed his direction and began running northbound. Officer B reversed the vehicle and informed Officer C via radio that Subject 1 changed direction. Officer B, who was informed by Officer C that Subject 1 had a weapon, observed Subject 1 walking on the sidewalk on 77th Street. Officer B observed a marked Department SUV (Tahoe) and informed the unit that the subject walking towards the marked vehicle was the subject he and his partner were pursuing. At this time, Officer C confirmed to Officer B that Subject 1 had a weapon in his hand, via radio. After Officer B observed Subject 1 at the location of 1508 East 77th Street, he exited his vehicle and approached Subject 1 with his weapon drawn. Officer B identified himself and ordered Subject 1 to stop. Subject 1 looked at Officer B and continued his attempt to make good his escape by jumping over several four (4) foot high metal fences going eastbound. Officer B, who relocated to the location of 1518 East 77th Street, stated that several responding officers were on the scene at this point. While in the front yard of 1518 East 77th Street, Officer B observed Officer A in the alley. According to Officer B, who estimated his distance from Officer A and Subject 1 as sixty (60) feet, Officer A ordered Subject 1 to drop the weapon multiple times. Officer B attempted to get to the alley but was unable to as a pit bull began running in his direction. Officer B then observed Officer A discharge his weapon and Officer B took cover. Officer B heard a total of four (4) shots. Officer B reported shots fired by the police via radio. Officer B went to the alley and observed Officer C standing over Subject 1, who was handcuffed, with a weapon approximately two (2) feet from him on the ground. Officer B did not know who handcuffed Subject 1. At some point, Officer B learned that Subject 1 was injured. An ambulance was called and Subject 1 was transported for medical attention. Officer B was not injured as a result of this incident.

⁵ Officer B was the driver officer on the date of this incident.

⁶ Officer B stated that based on his experience, he perceived Subject 1’s action of adjusting his waistband to infer that he (Subject 1) was holding a weapon.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

In a statement with IPRA, **Witness Officer C** provided his account of this incident which was consistent with the Department Reports, witness accounts and Summary of Incident. Officer C stated it was Subject 1's "fidgeting" with an item in his hands which caused him to keep watching Subject 1 after passing. Officers B and C engaged in a brief conversation and decided to stop Subject 1. Officer B pulled alongside Subject 1 and Officer C asked Subject 1 if he could speak with him. Subject 1 looked in the direction of Officers B and C and ran as he held his right waistband area. Officer C, citing his experience, took Subject 1's action of holding his waistband as an indication that Subject 1 was trying to prevent a weapon from falling out of his waistband. Subject 1 took off from the location in what Officer C described as a full sprint. Officer C, who was the passenger officer, exited the vehicle and gave chase on foot as he announced his office. Subject 1 did not respond to Officer C, but continued running as he held his side. Officer C monitored the radio as he continued his pursuit of Subject 1. In the vicinity of 76th Street, Officer C observed Subject 1 turn and run down a gangway. Upon arriving at the gangway, Officer C observed the area to be an open area. Officer C was reluctant to enter the area because he temporarily lost sight of Subject 1. Officer C heard over the radio that Officer B observed Subject 1. Officer C heard fences rattling and barking dogs in the vicinity which Officer C presumed was Subject 1. Officer C ran westbound down the alley and observed through a chain link fence, Subject 1 holding a barbecue grill lid up with his left hand and a shiny chrome object resembling a gun in his right hand.⁷ Officer C identified himself and ordered Subject 1 to stop. Subject 1 failed to comply with Officer C's orders and ran westbound through yards and over a series of fences. At this point, Officer C did not know what Subject 1 did with the gun. Officer C also ran westbound, following the same path as Subject 1 but remained in the alley. As Subject 1 ran, Officer C observed the weapon in his hand. Officer C repeatedly told Subject 1 to stop but he did not comply. Officer C continued to pursue Subject 1. At some point, Officer C observed Officer A coming towards him from the alley. Officer C yelled out to Officer A that Subject 1 had a gun. Officer C stated that while there were other officers in his proximity, his focus was on Officer A because Officer A was the closest to Subject 1 and had his weapon in the ready position. At this point, Officer C heard three to four (3-4) gun shots. Officer C did not see Officer A fire the shots because his back was to Officer A. Officer C stated he knew it was Officer A that discharged his weapon because Officer A had his weapon drawn and the fired shots sounded as if they came from Officer A's location. Officer C stated his weapon was drawn for a majority of his pursuit of Subject 1. Officer C approached the location where Subject 1 was lying on the ground and observed a weapon near Subject 1. Officer C kicked the weapon from out of Subject 1's reach and asked Subject 1 if he had been struck as Officer C handcuffed him. Subject 1 responded that he had been struck and Officer C requested one of the officers on the scene call for an ambulance.

In a statement with IPRA, **Witness Officer E** provided his account of this incident which was consistent with the Department Reports, witness accounts and Summary of Incident. Officer E, who was working Beat 411, a one (1) man unit, responded to a call of a foot chase of a man with a gun on his beat. Officer E was in the

⁷ Officer C stated that he knew the subject was Subject 1 based on his clothing and perceived the object to be a gun based on its shape.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

vicinity of 8500 South Stony Island Avenue when he heard the call. Officer E monitored the radio transmissions while he was en route to the location. While Officer E was en route, an officer came over the air and stated there was a marked vehicle near the subject who was involved in the foot chase. Officer E, who assumed that he was driving the marked vehicle the officer was referring to, looked over and observed a subject in the red jacket, now known as Subject 1, who matched the description walking on the sidewalk. Officer E backed his vehicle up to keep sight of Subject 1, but Subject 1 fled from the location running through yards in an attempt to make good his escape. Officer E stopped his vehicle and ran eastbound down the alley with his weapon drawn. Officer E saw Officer C standing by the alley and heard Officer C repeatedly telling Subject 1 to drop his weapon. Officer E observed other officers on the scene but could not identify them.⁸ Officer E observed Subject 1 in a squatting position. Officer E could not see if Subject 1 had anything in his hands, which were down towards the ground, from his vantage point. Subject 1 crouched down and Officer E heard three to four (3-4) shots. Officer E could not identify the location from where the shots were being fired. Officer E stated he heard multiple commands to Subject 1 to drop the weapon prior to the shots being fired but could not identify the officers who were making the commands. Officer E stated that Subject 1 did not comply with the commands given to him. Officer E went to the yard, where he observed Subject 1 lying on the ground. Officer E observed a black and chrome weapon lying next to Subject 1. Subject 1, who was being handcuffed and searched at this point, did not say anything. Officer E did not recall who handcuffed Subject 1. An ambulance was called to the scene. Officer E did not fire his weapon because he was too far from Subject 1's location, behind a six (6) foot fence and did not have a clear shot.

In a statement with IPRA, **Witness Officer D** provided his account of this incident which was consistent with the Department Reports, witness accounts and Summary of Incident. Officers A and D were working Beat 461E, in civilian dress, driving in an unmarked Department vehicle. Officers A and D responded to a call for assistance from their team members, Officers B and C in the vicinity of 1518 East 77th Street. Officer B related the call for service was related to the pursuit of a subject who was holding his right side, which Officer D took as the subject being pursued possibly having a weapon. Officers A and D, who were in the vicinity of 88th South Colfax Avenue, responded to 7700 South Blackstone Avenue. Upon arriving at 7700 South Blackstone Avenue, Officers A and D exited their vehicle and were met by Beat 411. Officer D observed Officer C in the alley near the garage and heard Officer C screaming words to the effect of, "drop the weapon," and, "let me see your hands." Officer D did not see anyone and did not know who Officer C was screaming at. Officers A and D approached the location where Officer C was, and observed a black male subject later identified as Subject 1 wearing a red jacket crouched down and holding a handgun. Subject 1 matched the description provided by Officer B. Officer C was on the east end of the garage and Officers A and D were on the west side of the garage, with their weapons drawn. Officer D heard Officer C repeatedly order Subject 1 to drop the weapon. Officers A and D, who observed Subject 1 holding a weapon, also instructed Subject 1 to drop the weapon, but Subject 1 did not comply. At this point, Subject 1 looked in the direction of Officers A and D while Subject 1's gun was pointed in the

⁸ Officer E stated that he did not know the other officers on the scene as they are assigned to tact and he is assigned to the watch. Officer E did not know Officer C prior to this incident.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

direction of Officer C. Officer A then fired three to four (3-4) rounds.⁹ Subject 1 tossed his weapon on the ground directly in front of him and laid down on the ground. Officer C approached Subject 1 and placed him into custody. Officer D remained on scene with Subject 1, with his weapon pointed. Officer D described the weapon Subject 1 had in his possession as chrome and blue steel. Officer D did not touch Subject 1's weapon nor did he engage in any conversation with Subject 1. Officer D observed Subject 1 to have a gun shot wound to his left side. Officer D stated he did not fire his weapon because Officer A had a better tactical position to fire than he did.

In a statement with IPRA, **Involved Officer A** provided his account of this incident which was consistent with the Department Reports, witness accounts and Summary of Incident.¹⁰ Officer A, who was the driver officer on the date of this incident, stated it was the radio transmissions of Officers B and C regarding a foot pursuit with a subject (Subject 1) holding his side which led him to 1518 East 77th Street. Officer A explained that when a subject is seen running and holding his side it is an "indicator" that the subject has a weapon. Officers A and D were at the location of 88th Street and Colfax Avenue when they heard the transmission of Officers B and C. While en route, Officer A activated the vehicle's emergency equipment and responded to the location. Officers A and D monitored the radio transmissions, which identified Subject 1's clothing and route used to elude Officers B and C. Officer C reported Subject 1 had a weapon in his hands and was running through yards. Officer B reported Subject 1's last sighting as 1506 East 77th Street and informed the units monitoring the foot pursuit that Subject 1 was still attempting to make good his escape.

Officer A stopped the unmarked patrol vehicle north of the alley between 76th Place and /77th Street and both he and Officer D exited. Officer A un-holstered his weapon at this time and continued toward Officer C. Officer A observed Officer C standing several yards down from his location in the alley. Officer A heard Officer C order Subject 1 to drop the weapon, but Subject 1 did not comply. Officers A and D observed Officer E in the alley but passed him and continued to Officer C's location. Officer A heard Officer C repeatedly order Subject 1 to drop the gun. Officer C was on the east side of the green garage. Officer A observed Subject 1, who was positioned on the west side of the garage, crouched down and leaning forward while holding a gun in the low ready position. Officer A described the weapon as a semi-automatic with a silver finish. Officer A yelled "drop it" to Subject 1, who looked in Officer A's direction but did not drop the weapon. It was at this point, in fear of danger for his life as well as Officers C and D's, that Officer A discharged his duty weapon four (4) times. Officer A described the following factors that him in fear for his safety were: the weapon was in a position where Subject 1 could point it at him, Subject 1 did not comply with numerous commands to drop the weapon, and Subject 1 had the weapon pointed in the direction of Officer C. Officer A, who had a clear and unobstructed view of Subject 1 when he fired, estimated that when he discharged his weapon, he was twenty five (25) feet from Subject 1 and two (2) feet from Officer D. Officer A described his location as being in the alley, between two (2) garages with a chain link fence separating him from Subject 1. Officer A, who had no other force options available to him, was standing still with an upright

⁹ Officer D estimated that he was approximately one (1) foot from Officer A when Officer A fired.

¹⁰ Officer A's post firearm discharge alcohol and drug testing results were negative for the presence of alcohol and/or drugs.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059058/U#12-49

posture when he fired. After Officer A fired the fourth shot, Subject 1 flinched, tossed the gun, and laid on the ground face down with his hands sprawled out. Once Subject 1 assumed this position, Officer A stopped firing. Officer C yelled out to Officer A about the location of the gun and Officer A informed Officer C that it was safe because he had Subject 1 in his sight and his weapon was still out. Officer C patted Subject 1 down and handcuffed him. Officer A observed a silver semi-automatic pistol with a black handgrip less than three (3) feet from Subject 1. Officer A heard Officer C ask Subject 1 where the gun was and Subject 1 responded that he threw it and that he was shot. Initially, Officer A did not observe Subject 1 to be injured, but later observed a gunshot wound to his left side when EMS arrived to treat him. Officer A acknowledged that proper notifications were made following the discharge of his weapon. During the course of the investigation, Officer A learned that he previously arrested Subject 1 for Criminal Trespass in 2009. Officer A had no independent recollection of having prior contact with Subject 1. Officer A was not injured as a result of this incident.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with both Illinois State Law and Chicago Police Department Directives.

Officers B and C's prior experiences led them to find Subject 1's act of holding his side as suspicious and indicative of weapon concealment. Subject 1's fleeing from Officers B and C during an attempted field interview led Officers B and C to reasonably believe their initial suspicion. During the course of the pursuit of Subject 1, the suspicions of Officers B and C were confirmed as a weapon was observed in Subject 1's hand(s). Officer A, having been informed that Subject 1 had a weapon, observed Subject 1 crouched down, leaning forward while holding a said weapon in the low ready position. He ordered Subject 1 to drop the weapon. When Subject 1 did not comply, fearing for the safety of Officers C and D and himself, Officer A discharged his weapon. Once Subject 1 tossed his weapon to the ground, Officer A did not fire any additional rounds.

The Cook County State's Attorney's Office reviewed this officer involved shooting, concluded there was no violation of the Illinois Compiled Statutes, and declined to file any criminal charges in this matter.

Based on the totality of the facts and circumstances, the Reporting Investigator finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 1 posed an immediate threat to his safety or the safety of others. The Reporting Investigator finds that the use of deadly force by **Officer A** was therefore objectively reasonable, in compliance with the Illinois Compiled Statutes; and **Within Policy**, as outlined by the Chicago Police Department's General Order No. 03-02-03, III, which states:

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or
2. to prevent an arrest from being defeated by resistance or escape and the sworn member believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm;
 - b. is attempting to escape by use of a deadly weapon; or
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.